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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,247	03/18/2004	Arthur L. Backman	200TR388	5972

37535 7590 02/01/2006  
NOVEON IP HOLDINGS CORP.  
9911 BRECKSVILLE ROAD  
CLEVELAND, OH 44141-3247

EXAMINER
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MIGGINS, MICHAEL C

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 02/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/803,247

Applicant(s)

BACKMAN ET AL.

Examiner

Michael C. Miggins

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1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 08122005
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/19/05 has been entered.

### **REJECTIONS WITHDRAWN**

2. All of the rejections and allowable subject matter set forth in the final rejection of 4/19/05, pages 2-3, paragraphs 2-3.

### **REJECTIONS REPEATED**

3. There are no rejections repeated.

#### ***Examiner's Comments***

4. In view of the 112 2<sup>nd</sup> paragraph rejections set forth below and clarity, it is respectfully suggested that claims 1 and 8 be amended as follows by applicant in the next response:

1. A multilayer pipe comprising,

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- (i) an outer layer comprising a segmented thermoplastic copolyester elastomer; and,
- (ii) an annular core comprising chlorinated poly(vinyl chloride) ("CPVC") with less than 25% by weight chlorinated poly(vinyl chloride) ("PVC"), the annular core being coextensive with substantially the entire length of the body;  
the outer layer being cohesively bonded to the annular core to form a laminate;  
and,  
the copolyester elastomer comprising (a) one or more dicarboxylic acids, (b) one or more long chain glycols, and (c) one or more low molecular weight diols.

8. A method of producing an elongated pipe comprising,  
concurrently extruding an annular core comprising chlorinated poly(vinyl chloride) ("CPVC") with less than 25% by weight chlorinated poly(vinyl chloride) ("PVC") in a substantially uniform thickness, measured in the radial direction, in the range from 0.95 mm (38 mils) to 1.375 mm (55 mils), and an outer tubular layer comprising a segmented thermoplastic copolyester elastomer having a hardness in the range from about 40 – 72 Shore D overlying the annular core in a substantially uniform thickness coextensive with substantially the entire length of the body cohesively bonded to the annular core.

## **NEW REJECTIONS**

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-12 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 contains the limitations "from the group consisting of" and "and blends thereof" in lines 3 and 4 which renders the claim indefinite because only one polymer, chlorinated poly(vinyl chloride), is listed.

Claim 1 contains the limitation "or their equivalents" which renders the claim indefinite because the equivalents are not listed and therefore it is not clear what is included or excluded by said limitation and thus the metes and bounds of the claim are not clearly set forth.

Claim 3 contains the limitation "applicable specifications of a plumbing code for CPVC" which renders the claim indefinite because the specifications are not recited in the claims and it is not clear what is included or excluded by said limitation and thus the metes and bounds of the claim are not clearly defined. While the specification may disclose said specifications, limitations from the instant specification are not read into the claims. It is respectfully suggested that the limitation "and the wall thickness of the copolyester elastomer layer is such as to satisfy applicable specifications of a plumbing code for CPVC" be deleted.

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Claim 8 recites the limitation "arbitrary length and cross-section" in lines 1-2 which renders the claim indefinite because the length and cross-section are not recited in the claim and it is not clear what lengths and cross-sections are included or excluded in the claim and thus the metes and bounds of the claim are not clearly set forth.

Claim 8 recites the limitation "CPVC/PVC" in line 3 which is an abbreviation, the chemical name should be recited at least once in the independent claim.

Claim 8 contains the limitation "applicable specifications of a plumbing code for CPVC" in line 9 which renders the claim indefinite because the specifications are not recited in the claims and it is not clear what is included or excluded by said limitation and thus the metes and bounds of the claim are not clearly defined. While the specification may disclose said specifications, limitations from the instant specification are not read into the claims. It is respectfully suggested that the limitation "and the wall thickness of the copolyester elastomer layer is such as to satisfy applicable specifications of a plumbing code for CPVC" be deleted.

#### **ANSWERS TO APPLICANT'S ARGUMENTS**

7. Applicant's arguments filed 10/19/05 have been carefully considered but are moot in view of the new grounds for rejection set forth above.

#### ***Conclusion***

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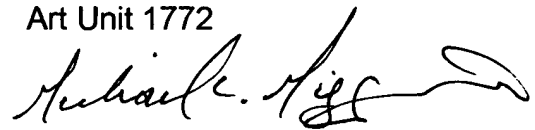
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MCM  
January 6, 2006

Michael C. Miggins  
Primary Examiner  
Art Unit 1772

A handwritten signature in black ink, appearing to read "Michael C. Miggins", with a stylized flourish at the end.